

## **REMARKS/ARGUMENTS**

### **STATUS OF THE CLAIMS**

Applicants have amended Claims 1 and 18. Claims 1-45 are currently pending.

### **CLAIMS REJECTION – 35 U.S.C. § 102**

#### **Independent Claim 1**

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,158,510 issued to Lemire (hereinafter “Lemire”).

Claim 1 specifies “A patient-positioning device comprising: a main portion having a first side configured to support a portion of a patient’s body, and a second side configured to rest on a surface, the main portion configured to support the portion of the patient’s body a distance from the surface; and a hanging tab extending from the main portion.”

Lemire discloses an exercise belt 10, a tether 11, and an attachment strap 16. *Lemire*, col. 5, lines 8-12. The belt 10 includes an elongated flexible rectangular panel 18 having an interior surface 20 and an oppositely disposed exterior surface 22 and a pad 28. *Id.* at col. 5, lines 13-16 and 34-39. If the side of the pad 28 pressed against the back of the user 48 is the “first side” and the exterior surface 22 is the “second side” as required by Claim 1, the exterior surface 22 disclosed in Lemire is not configured to rest on a surface. Rather, the exterior surface 22 is suspended in mid-air. The purpose of the belt 10 is to support the back of the user 48 on a stationary bicycle 66 or a stair stepping machine 62 that does not include its own back support. *See Lemire*, Figures 6 and 7. Thus, the exterior surface 22 is not configured to rest on any surface. Moreover, the side of the pad 28 pressed against the back of the user 48 is not configured to support the back of the user 48 a distance from a surface supporting the exterior surface 22.

Accordingly, Lemire does not disclose “a second side configured to rest on a surface” or a “main portion configured to support the portion of the patient’s body a distance from the

surface” as required by amended Claim 1. Therefore, independent Claim 1 and dependent Claims 2-8 and 10-11 are allowable.

Dependent Claims 2-4

Claims 2-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lemire. Claims 2-4 depend from independent Claim 1 and are therefore allowable for the reasons discussed above with respect to Claim 1. Claims 2-4 also specify additional patentable subject matter. Therefore, Claims 2-4 are allowable.

CLAIM REJECTIONS – 35 U.S.C. § 103

Independent Claim 1

Claim 1 also stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemire in view of U.S. Patent No. 6,575,876 issued to Phelps-McMillon (hereinafter “Phelps”).

Regarding the Lemire reference, if the side of the pad 28 pressed against the back of the user 48 is the “first side” and the exterior surface 22 is the “second side” as required by Claim 1, the exterior surface 22 is not configured to rest on a surface. Rather, the exterior surface 22 is suspended in mid-air. The purpose of the belt 10 is to support the back of the user 48 on a stationary bicycle 66 or a stair stepping machine 62 that does not include its own back support. *See Lemire*, Figures 6 and 7. Thus, the exterior surface 22 is not configured to rest on any surface. Moreover, the side of the pad 28 pressed against the back of the user 48 is not configured to support the back of the user 48 a distance from a surface supporting the exterior surface 22.

As the Examiner acknowledges on page 3 of the Office action, Phelps does not cure the deficiencies of Lemire except to modify the foam disclosed by Lemire to be made of resilient type foam.

Accordingly, neither Lemire nor Phelps teaches or suggests “a second side configured to rest on a surface” or a “main portion configured to support the portion of the patient’s body a

distance from the surface” as required by amended Claim 1. Therefore, independent Claim 1 and dependent Claims 2-8 and 10-11 are allowable.

Dependent Claims 2-8 and 10-11

Claims 2-8 and 10-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemire in view of Phelps. Claims 2-8 and 10-11 depend from independent Claim 1 and are therefore allowable for the reasons discussed above with respect to Claim 1. Claims 2-8 and 10-11 also specify additional patentable subject matter. Therefore, Claims 2-8 and 10-11 are allowable.

Independent Claim 18

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemire in view of Phelps, and U.S. Patent No. 5,806,692 issued to Pepper (hereinafter “Pepper”).

Claim 18 specifies “A patient-positioning device system comprising: a plurality of patient-positioning devices, each one of the plurality of patient-positioning devices including a main portion having a first side configured to support a portion of a patient’s body; and a second side configured to rest on a surface; the main portion configured to support the portion of the patient’s body a distance from the surface; and a storage rack from which each one of the plurality of patient-positioning devices can be hung.”

Regarding the Lemire reference, if the side of the pad 28 pressed against the back of the user 48 is the “first side” and the exterior surface 22 is the “second side” as required by Claim 18, the exterior surface 22 is not configured to rest on a surface. Rather, the exterior surface 22 is suspended in mid-air. Thus, the exterior surface 22 is not configured to rest on any surface. Further, the side of the pad 28 pressed against the back of the user 48 is not configured to support the back of the user 48 a distance from a surface supporting the exterior surface 22.

As the Examiner acknowledges on page 3 of the Office action, Phelps does not cure the deficiencies of Lemire except to modify the foam disclosed by Lemire to be made of resilient

type foam. As the Examiner also acknowledges on page 3 of the Office action, Pepper does not cure the deficiencies of Lemire and Phelps except to provide a storage rack to store the device before it is used.

Accordingly, none of Lemire, Phelps, or Pepper teaches or suggests "a second side configured to rest on a surface" or a "main portion configured to support the portion of the patient's body a distance from the surface" as required by amended Claim 18. Therefore, independent Claim 18 and dependent Claims 19-25, 27-29, and 37-38 are allowable.

Dependent Claims 19-25, 27-29, and 37-38

Claims 19-25, 27-29, and 37-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lemire in view of Phelps, along with Pepper. Claims 19-25, 27-29, and 37-38 depend from independent Claim 18 and are therefore allowable for the reasons discussed above with respect to Claim 18. Claims 19-25, 27-29, and 37-38 also specify additional patentable subject matter. Therefore, Claims 19-25, 27-29, and 37-38 are allowable.

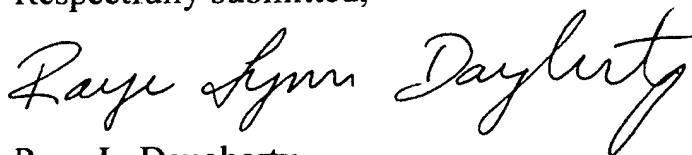
ALLOWABLE SUBJECT MATTER

Applicants appreciate the allowance of Claims 9, 12-17, 26, 30-36, and 39-45.

CONCLUSION

In view of the above, Applicants respectfully request entry of the amendment and allowance of pending Claims 1-45.

Respectfully submitted,



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